

**Nursing and Midwifery Council  
Fitness to Practise Committee**

**Substantive Order Review Hearing  
Monday, 13 January 2025**

Virtual Hearing

**Name of Registrant:** Darren Michael Hiscutt

**NMC PIN** 01A0472E

**Part(s) of the register:** Registered Nurse – Adult Nursing RNA - (January 2003)

**Relevant Location:** Hampshire

**Type of case:** Misconduct/Lack of competence

**Panel members:** Francesca Keen (Chair member)  
Vivienne Cooper-Thorne (Registrant member)  
Colin Sturgeon (Lay member)

**Legal Assessor:** Graeme Dalglish

**Hearings Coordinator:** Karina Levy

**Nursing and Midwifery Council:** Represented by Ms Stevens, Case Presenter

**Mr Hiscutt:** Not Present and unrepresented

**Order being reviewed:** Suspension order (6 months)

**Fitness to practise:** Impaired

**Outcome:** **Striking-Off order to come into effect on 21 February 2025 in accordance with Article 30 (1)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mr Hiscutt was not in attendance and that the Notice of Hearing had been sent to Mr Hiscutt's registered email address by secure email on 5 December 2024.

Ms Stevens, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the substantive order being reviewed, the time, dates and venue of the hearing/and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Hiscutt's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Hiscutt has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

The panel noted that the Rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Decision and reasons on proceeding in the absence of Mr Hiscutt**

The panel next considered whether it should proceed in the absence of Mr Hiscutt. The panel had regard to Rule 21 and heard the submissions of Ms Stevens who invited the panel to continue in the absence of Mr Hiscutt. She submitted that Mr Hiscutt had voluntarily absented himself and had not made an application for an adjournment. Mr Hiscutt states in his letter to the NMC, dated 4 January 2025 that he would not be attending the hearing and that he understood that the proceedings may continue in his absence.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Hiscutt. In reaching this decision, the panel has considered the submissions of Ms Stevens, the representations from Mr Hiscutt, and the advice of the legal assessor. It has had particular regard to any relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- Mr Hiscutt has informed the NMC that he has received the Notice of Hearing and confirmed he is content for the hearing to proceed in his absence;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious review of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Hiscutt.

## **Decision and reasons on application for hearing to be held in private**

The panel determined to rule on whether or not to go into private session in connection with [PRIVATE]. Having taken legal advice, the panel decided to conduct the hearing in private if and when [PRIVATE].

## **Decision and reasons on review of the substantive order**

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 21 February 2025 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the first review of a substantive suspension order originally imposed for a period of 6 months by a Fitness to Practise Committee panel on 22 July 2024.

The current order is due to expire at the end of 21 February 2025.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved by way of admission which resulted in the imposition of the substantive order were as follows:

That you, a registered nurse, whilst employed at Treloar School between 22 February 2016 and 20 November 2019 failed to demonstrate the standards of knowledge skill and judgement required to practise without supervision as a Senior Staff Nurse:

1. During May 2018 left medications in a cupboard accessible to all staff; [FOUND PROVED BY ADMISSION]
2. On 12 November 2018, did not sign the drug log book to confirm the controlled drug Fentanyl was administered to Student B; [FOUND PROVED BY ADMISSION]
3. On 8 Feb 2019 did not: a. provide adequate handover regarding Student C in relation to Student C not passing urine since 03:00; b. escalate Student C's

- failure to pass urine since 03:00; [FOUND PROVED BY ADMISSION IN ITS ENTIRETY]
4. On 15 February 2019, made an incomplete entry in Student F's notes; [FOUND PROVED BY ADMISSION] & [NO CASE TO ANSWER IN RESPECT OF MISCONDCUT]
  5. On 7 March 2019, did not check Student G's medication onto the EMAR system; [FOUND PROVED BY ADMISSION]
  6. On 8 March 2019 submitted an incident report form for Student G stating that the Team Leader had informed Student G's mother when this was incorrect; [FOUND PROVED BY ADMISSION]
  7. On 20 March 2019 did not appropriately supervise Colleague A, in that you did not notice when they gave Student H desogestrel medication from the wrong day in the blister pack; [FOUND PROVED BY ADMISSION]
  8. On 16 May 2019 did not appropriately supervise Colleague B, in that you:
    - b. did not notice when they gave Student I medication from the wrong day in the blister pack; [FOUND PROVED BY ADMISSION]
  9. On 22 May 2019:
    - b. when Student J was provided with 50mg of sertraline, did not seek medical advice; [FOUND PROVED BY ADMISSION]
  10. Prior to 4 July 2019 failed to:
    - b. Recognise that a witness was required for Student B to self-administer Fentanyl [FOUND PROVED BY ADMISSION]
  11. On 12 Sept 2019: a. did not identify and/or escalate when Student L presented with signs of sepsis; b. did not immediately administer oxygen to Student L when their oxygen saturation was below 94; [FOUND PROVED BY ADMISSION IN ITS ENTIRETY]
  12. On 26 September 2019 incorrectly recorded 2x 25mg tablets of Lamotrigine on Student M's MAR chart when it should have been 2x 5mg; [FOUND PROVED BY ADMISSION]

AND in light of the above, your fitness to practise is impaired by reason of your lack of competence and/or misconduct.

The original panel determined the following with regard to impairment:

*“The panel found that [PRIVATE]. It concluded your misconduct and lack of competence have breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.*

*The panel considered that you had demonstrated some insight, however it was varying, limited and inconsistent as you did not appear to appreciate how your approach and outlook affected your actions. Consequently, the panel found you had demonstrated an underdeveloped understanding of what went wrong, albeit when questioned further during your evidence, you explained you would do things differently. In reaching its conclusion in relation to insight, the panel has not overlooked the issues you raised in relation to [PRIVATE].*

*In its consideration of whether you have taken steps to strengthen your practice, the panel took into account that you had undertaken some training courses, however noted that although you have been working as a nurse for a limited amount of time since these events, there is no evidence that you have strengthened your practice or addressed your failings sufficiently. You told the panel that in your current role, you have been unable to complete your competencies.*

*The panel referred to the test set out in the case of Ronald Jack Cohen v General Medical Council [2008] EWHC 581 (Admin) and determined that although the concerns in this case could potentially be remediated, you have not been able to sufficiently address them. The panel is of the view that there is a risk of repetition based on your lack of insight and remediation. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.*

*The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel determined that, in this case, a finding of impairment on public interest grounds was also required. It concluded that a reasonable and informed member of the public would be troubled if a finding of impairment was not made in this case.*

*Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired...”*

The original panel determined the following with regard to sanction:

*“...The panel next considered whether placing conditions of practice on Mr Hiscutt’s registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. It noted that it previously determined that there were identifiable areas that could be remediated, and that it may, at the time, have been possible to formulate workable conditions. However, the panel considered that prior to the last time this case was heard, Mr Hiscutt has disengaged with the process and has not demonstrated any willingness to engage further in the nursing profession. The panel noted that Mr Hiscutt’s application for agreed removal clearly outlined that he does not wish to practise as a registered nurse and would not engage with the NMC any further. The panel also took into account the telephone note dated 8 May 2024 which stated:*

*‘He (Mr Hiscutt) talked about what he is doing with his life now. He is training to be a lawyer and is doing local advocacy work. He is also driving a bus for disabled children and [PRIVATE].’*

*In light of all the information above, the panel determined that there are no practical or workable conditions that could be formulated to adequately protect the public or meet the public interest.*

*The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:*

- A single instance of misconduct but where a lesser sanction is not sufficient;*
- No evidence of harmful deep-seated personality or attitudinal problems;*
- No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- ...
- ...

*Due to Mr Hiscutt's recent disengagement from the NMC regarding this process, the panel determined that a conditions of practice order was no longer appropriate. Therefore, the panel determined that some aspects of the above factors were applicable in this case and was satisfied that although the concerns are serious and wide-ranging, there was no evidence of harmful deep-seated personality or attitudinal problems. The panel took into account that Mr Hiscutt had demonstrated some level of insight. The panel did go on to consider whether a striking-off order would be proportionate but, taking into account it's previous findings that Mr Hiscutt's actions were not incompatible with him remaining on the register, the panel concluded that it would be disproportionate in this case to impose a striking-off order. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mr Hiscutt's case to impose a striking-off order. Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction to protect the public and meet the public interest..."*



## Decision and reasons on current impairment

The panel has considered carefully whether Mr Hiscutt's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle and a letter from Mr Hiscutt. It has taken account of the submissions made by Ms Stevens on behalf of the NMC. Ms Stevens submitted that Mr Hiscutt was originally engaging and represented until April 2022. The proven charges demonstrate misconduct and lack of competencies. Mr Hiscutt has demonstrated a low level standard of professional performance and put patients at risk. Mr Hiscutt also placed students who had complex needs at risk. Mr Hiscutt had requested for removal from the register, but this was refused.

Mr Hiscutt has not been working as a nurse and has stated

*"I am no longer working as a nurse. Regardless of suspension I have no intention of returning to the profession in either the near or distant future. I see myself as an ex-nurse enjoying a happier life away from the profession. I would like to leave the register as soon as that is an option."*

The panel heard and accepted the advice of the legal assessor.

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mr Hiscutt's fitness to practise remains impaired.

The panel noted that the original panel found that Mr Hiscutt had insufficient insight. At today's hearing, the panel do not believe that Mr Hiscutt has shown any further insight.

There has been no engagement since July 2024 and in the absence of any further information, Mr Hiscutt remains impaired. In regards to public protection and public interest, Mr Hiscutt is not currently working as a nurse and states that he is no longer continuing the profession. There has been no evidence of remediation or strengthening of practice. There is therefore nothing before the panel to suggest that any of the risks identified by the substantive hearing panel have been diminished or addressed to avoid repetition. Taking this into account and given the length of time that Mr Hiscutt has been out of the nursing profession, the panel concluded that there remained a risk of repetition and therefore a risk of harm to the public.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in all the circumstances of this case, a finding of continuing impairment on public interest grounds is also required.

For these reasons, the panel finds that Mr Hiscutt's fitness to practise remains impaired.

### **Decision and reasons on sanction**

Having found Mr Hiscutt's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Hiscutt's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the*

*spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.*' The panel considered that Mr Hiscutt's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether conditions of practice on Mr Hiscutt's registration would be a sufficient and an appropriate response. The panel is mindful that Mr Hiscutt is not currently working as a nurse and any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and Mr Hiscutt's disengagement from the regulatory process, consequently the panel was not able to formulate conditions of practice that would adequately address the concerns relating to Mr Hiscutt's misconduct/lack of competence.

The panel next considered imposing a further suspension order. The panel noted that Mr Hiscutt has not shown remorse for his misconduct. Further, Mr Hiscutt has not demonstrated any detailed insight into his previous failings. The panel was of the view that sufficient evidence would be required to show that Mr Hiscutt no longer posed a risk to the public and Mr Hiscutt has stated that he does not wish to engage in the regulatory process or provide such evidence. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances of this case. The panel determined that it was necessary to take action to prevent Mr Hiscutt from practising in the future and concluded that the only sanction that would adequately protect the public and serve the public interest was a striking-off order.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 21 February 2025 in accordance with Article 30(1)

This decision will be confirmed to Mr Hiscutt in writing.

That concludes this determination.